

Mandates of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on extrajudicial, summary or arbitrary executions

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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the situation of human rights defenders; and Special Rapporteur on extrajudicial, summary or arbitrary executions pursuant to Human Rights Council resolutions 25/2, 25/18, and 26/12.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received **concerning alleged attacks and death threats against human rights and anti-corruption activist, Mr. Prakash Chandra Pathak.**

Mr. Prakash Chandra Pathak is a right to information (RTI) activist and human rights defender operating in the District of Shahjahanpur, Uttar Pradesh. Mr. Pathak has been fighting against corruption in this area since 2008. He has also been active on the promotion of transparency, accountability and the fight against corruption in public office by seeking information through the Right to Information Act of 2005. He has filed more than 350 RTI applications to uncover corruption in various departments of the district of Shahjahanpur. His applications affected numerous local public institutions such as the Village Development Office, the Food Supply Department, the Education Department, the Telecommunication Department, and Child Development Department, and resulted in the opening of a criminal investigation (case 109/11 under sections 420, 467, 471, 409, 120B of the Indian Penal Code (IPC) and section 3/7 under Essential Commodities Act (ECT) of the Jalalabad Police Station) that affected political personalities of the district. Mr. Pathak is an active member of his village Gram Panchayat.

According to the information received:

On 15 December 2010, at 10:45 pm, unknown assailants shot indiscriminately at Mr Pathak's car as he was arriving home. A case of attempted murder was filed with No. 743/2010.

On 14 January 2015, at 1:30 pm, Mr. Pathak's house was attacked and set on fire by three individuals. Mr. Pathak was able to escape from the burning house. During the incident, he identified one of the three assailants, the current head of the village. Mr. Pathak filed a case with the police (case n° 64/15 under section 307 and 435 of the Indian Penal Code), which started a criminal investigation against the three individuals. However, it is reported that the accused, with the help of a state politician, were later cleared of any responsibility on the case.

On 22 July 2015, Mr. Pathak sent a letter to the Chief Secretary of Government of Uttar Pradesh and to other high-ranking officials, requesting protection in light of the death threats that he had been receiving from persons accused by him of corruption and malpractices, including government officials. The request was not granted.

On 27 August 2015, at 12:45 pm, Mr. Pathak's house was attacked by four to five unidentified individuals who tried to enter the house by climbing an electricity pole in front of the property, with the presumed intention to kill him. Mr. Pathak was not at home at the time but his son, Mr. [REDACTED], was. Anticipating the presence of people in the house Mr. [REDACTED] shouted for help. Neighbours came to the property to see what was happening, prompting the assailants to run away. The family informed the Station House Officer (SHO) of Jalalabad police about the incident. The police came to Mr. Pathak's house the following day. The SHO warned Mr. Prakash Pathak to care for his safety because his enemies were out to get him.

On 3 September 2015, Mr. Pathak filed a complaint with the Office of the District Magistrate in Shahjanpur regarding a five-year unauthorized occupation of land in Gram Sabha, where a construction of new set of cement houses had begun. Mr. Pathak contacted the Sub-Divisional Magistrate (SDM) in Sadar, who in turn asked the SHO at the Jalalabad police station to demolish the unauthorized construction. The police arrested some people in connection to the case who were later released. Following the incident, Mr. Pathak began to receive new death threats.

It is believed that Mr. Pathak is being targeted and threatened in reaction to his activities related to exposing corruption and malpractice in the District of Shahjahanpur, Uttar Pradesh, some of which have led to criminal proceedings against several socially and politically high-standing persons in the area.

Grave concern is expressed for the life, security and physical integrity of Mr. Prakash Chandra Pathak. Our concerns are particularly heightened by the allegations that the attacks, intimidation and death threats against him are linked to his legitimate and peaceful human rights work, and the exercise of his legitimate right to freedom of

expression, in particular his fight against corruption in the District of Shahjahanpur, Uttar Pradesh.

In view of the urgency of the matter, we urge your Excellency's Government to adopt all necessary measures to protect the life, security and physical integrity of Mr. Prakash Chandra Pathak and ensure that he is able to carry out his legitimate work in a safe and enabling environment. We also urge you to adopt effective measures to investigate, prosecute and sanction those responsible of the alleged violations.

While we do not wish to prejudge the accuracy of these allegations, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

The above mentioned allegations are in contravention of the right to life and security as set forth in article 3 of the Universal Declaration of Human Rights (UDHR) and 6 of the International Covenant on Civil and Political Rights (ICCPR), acceded by your Government on 10 April 1979.

These allegations also contravene the right to freedom of expression and opinion as enshrined in articles 19 of the UDHR and the ICCPR. The Human Rights Committee in particular has urged States parties to protect against attacks aimed at silencing those exercising their right to freedom of expression and to vigorously investigate all such attacks in a timely fashion (CCPR/C/CG/34, para. 23).

We would also like to refer to the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders, in particular articles 1, 2, 6, 9 and 12. Furthermore, we wish to recall Human Rights Council resolution 13/13, which urges States to put an end to and take concrete steps to prevent threats, harassment, violence and attacks by States and non-State actors against all those engaged in the promotion and protection of human rights and fundamental freedoms.

We also want to recall that the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions (Principle 4) establish the obligation of States to ensure effective protection to those who receive death threats and are in danger of extra-legal, arbitrary or summary executions. Principle 9 also establishes the duty to conduct thorough, prompt and impartial investigations of all suspected cases of extra-legal, arbitrary and summary executions.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned person in compliance with international instruments.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above mentioned allegations.
2. Please indicate what measures have been taken to protect the life, security and physical integrity of Mr. Pathak and ensure that he is able to carry out his legitimate work in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.
3. Please provide the details, and where available the results, of any criminal investigation carried out in relation to the attacks and death threats against Mr. Pathak. If this investigation has yet to take place, or if it has been inconclusive, please explain why.
4. In the event that the alleged perpetrators are identified, please provide the full details of any prosecutions which have been undertaken; have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

David Kaye
Special Rapporteur on the promotion and protection of the right to
freedom of opinion and expression

Michel Forst
Special Rapporteur on the situation of human rights defenders

Christof Heyns
Special Rapporteur on extrajudicial, summary or arbitrary executions